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SIPDIS

DEPARTMENT FOR EUR/CACEN (J.MUDGE), DRL/PHD (C. KUCHTA-
HELBLING)

SENSITIVE

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TAGS: [PGOV](#) [PHUM](#) [EAID](#) [KZ](#) [POLITICAL](#)

SUBJECT: KAZAKHSTAN: NGO LAWS RULED UNCONSTITUTIONAL

REF: A) Almaty 2386, B) Almaty 3047, C) Astana 6

11. (SBU) Summary: The Constitutional Council has ruled that pending NGO legislation which had provoked a storm of international criticism is unconstitutional. President Nazarbayev is expected to comply with the ruling and reject the legislation. This is a very positive development, as the legislation would have crippled the development of civil society in Kazakhstan by limiting foreign assistance and imposing onerous re-registration requirements. End summary.

12. (U) On August 23, the Constitutional Council ruled that two laws on NGOs were unconstitutional. The laws, which were adopted by Parliament on June 29 and referred to the Constitutional Council by President Nazarbayev for analysis on July 4, had provoked an outcry among the NGO community and international human rights groups. Provisions allowing international NGOs to work only through local branches, requiring the re-registration of all NGOs, forbidding non-Kazakhstanis from heading local offices, and mandating local government approval of all grants from international organizations to local NGOs would have severely hampered the development of civil society (Ref A).

13. (U) Despite the ruling, the package of legislation will still go to President Nazarbayev for consideration. Article 73, point 4 of the Constitution specifies that "The President of the Republic may object, as a whole or in part to the resolutions of the Constitutional Council. These objections shall be overruled by two-thirds of the votes of the total number of the members of the Constitutional Council. If the objections of the President are not overruled, the resolution of the Constitutional Council shall be considered not adopted."

14. (SBU) Local observers do not expect Nazarbayev to contest the ruling. Yevgeniy Zhovtis of the Kazakhstani International Bureau of Human Rights termed the laws "dead." He believes the drafts were initiated and supported by the Presidential Administration; their rejection by the Constitutional Council, where Nazarbayev controls five of the seven members, is a clear sign that the GOK took the political decision to drop the legislation in the face of international criticism. He also pointed out that there would not be sufficient time to revise the legislation before December 2005 presidential elections (Ref B). Ninel Fokina of the Almaty Helsinki Committee believes that while the current legislation will not reappear, after the elections the Presidential Administration will try to introduce certain elements through amendments to current legislation. She highlighted in particular comments by Nazarbayev in August regarding the need for transparency in the financing of NGOs and the fact that only Kazakhstanis should head NGOs.

15. (SBU) Comment: This is a very positive development. Signature of this legislation would have dealt a severe blow to the development of civil society in Kazakhstan, well beyond the circle of NGOs that are U.S. assistance partners. The legislation would also have significantly constrained the ability of international and local NGOs to help parties and observers prepare for December 2005 presidential elections. Today's announcement came as a pleasant surprise, given that during an August 22 public hearing the Constitutional Council appeared to be in no hurry to render a final decision. Given the recent passage of several other pieces of troubling legislation, however, most notably the national security amendments (Ref C), the outlook for political reform and the development of civil society in Kazakhstan is still not bright.

16. (U) Dushanbe minimize considered.

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